THE RAMEAU LAW FIRM

16 Court Street, Suite 2504
Brooklyn, NY 11241

AMY RAMEAU, ESQ.*
amywmrameau@hotmail.com

*Admitted in New York, New Jersey,
Eastern and Southern Districts of New York

Of Counsel
AFSAAN SALEEM, ESQ.+
saleemlawny@gmail.com

+Admitted in New York,
Eastern and Southern Districts of New York

December 18, 2015

VIA ECF
Hon. Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Justine Jiminez v. City of New York, et al., 15 CV 3257 (BMC)

Your Honor:

I represent the plaintiff Hart in the above-referenced matter. I write pursuant to Your Honor's December 17, 2015 Order directing plaintiff to provide a response to defendants' pre-motion application. Plaintiff opposes plaintiff's request for a pre-motion conference as any motion filed by defendants would not be dispositive of the case and would still need to result in a trial as issues of fact will remain.

Plaintiff disputes the facts as stated by defendants in their letter to the Court. However, without the benefit of the transcript plaintiff's counsel is unable to discern what plaintiff actually testified to and what plaintiff discussed with counsel. Accordingly, plaintiff's counsel does not want to unwittingly reveal privileged attorney-client communications in an attempt to refute statements made by defendants in their letter.

As to defendants' motion to dismiss plaintiff's unlawful entry and search claims, plaintiff disputes the fact that the arrest warrant for Justine Jiminez authorized the defendants to enter and search her apartment. As to plaintiff's false arrest and malicious prosecution claims, plaintiff maintains that the gun was planted. Plaintiff's counsel is loath to state what specifically he testified to without the benefit of his transcript. However, plaintiff would state that plaintiff be afforded the opportunity to allow a jury to assess his credibility and his version of events over the officers. Defendants seem to be asking plaintiff to prove a negative—that the gun that they allegedly recovered from his house was not actually recovered from the apartment. In this instance, the quality or believability of plaintiff's evidence is best left for a jury to decide. The fact that plaintiff has evidence—his own testimony—is sufficient to create a general issue of material fact to defeat dismissal of this claim on summary judgment. Accordingly, plaintiff would oppose defendants' request for a pre-motion conference and the filing of such a motion. I thank the Court for its consideration.

Sincerely,

Afsaan Saleem, Esq.

T: (718) 852-4759 • F: (718) 875-5440 • E: rameaulawny@gmail.com • W: therameaulawfirm.com